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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,240	01/17/2002	Philippe Georges Castel	DP-301665	8028
22851	7590	09/21/2004	EXAMINER	
DELPHI TECHNOLOGIES, INC.			LOPEZ, FRANK D	
M/C 480-410-202			ART UNIT	
PO BOX 5052			PAPER NUMBER	
TROY, MI 48007			3745	

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,240

Applicant(s)

CASTEL, PHILIPPE GEORGES

Examiner

F. Daniel Lopez :

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/2/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Applicant's arguments filed June 2, 2004, have been fully considered but they are not deemed to be persuasive.

Applicant argues that the specification states that the "displacement of the sleeve creates inside the sleeve and around the end of the piston 70 an annular cavity 104", properly represented in fig 3, and that the annular cavity is "filled by the material displaced by deformation of the reaction disc 96", and further discusses the claim language supported by this part of the specification. What the specification states is not in question. The question is what does it mean? In fig 2, an annular space inside the sleeve, between the flange and the flat head, outside a diameter D2 is filled with a part of the reaction disc. In fig 3, this same annular space, now partly defined by an outer circumferential surface of the piston (70), between the first and second annular bearing surfaces (72, 74), is still filled by the reaction disc. **It is unclear how the deformation** of the reaction disc, caused by movement of the sleeve from the position shown in fig 2 to the position shown in fig 3, **can cause material to fill in the cavity, since the cavity is already filled before the deformation.** This is why the drawings, the specification and the claims are objected to, or rejected, since it is unclear what part of the discussion is wrong.

Applicant argues that Gautier does not show a flange holding a reaction disc within a sleeve. Applicant is mistaken. The sleeve of Gautier (26) includes an annular portion surrounding the reaction disc and a flange surrounding the flat head (22). This flange prevents the reaction disc from extending out through the front end of the sleeve, which is understood to meet the above limitation. It is understood that the drawings of Gautier does not look like applicant's drawings, but the 102 rejection is based on applicant's claims, not the description or drawings. Similar arguments are made concerning the other references used in the 102 rejections, and are rebutted similar to the rebuttal using Gautier.

Applicant argues that the "means for connecting" of claim 49 line 5, as described in the application is not shown in Gautier. It is clear that applicant is invoking the 112 6th paragraph rule on a means plus function limitation. Part of the rule concerning the means plus function limitation is that the elements making up the means plus function

must be clear in the record. In applicant's arguments, there is no statement as to what specific elements make up the means for connecting, since applicant only points to fig 2. The limitation of claim 49 is "a thrust assembly comprising means for connecting to a master cylinder". The examiner construes this to be the reaction rod 82, based on paragraph 51 of the specification, which states "The thrust assembly is composed of a reaction rod 82 connected to the master cylinder" and a comparison with the independent claims, which have the same limitation, with "means for connecting" replaced by "reaction rod". It appears that the reaction rod (20) of Gautier is the same as applicant's reaction rod, and therefore meets the limitation. Similar arguments are made concerning the other references used in the 102 rejections, and are rebutted similar to the rebuttal using Gautier.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

Fig 3 appears to be wrong, since neither the flat head nor the plunger are shown moved to absorb the material displaced by the deformations of the reaction disc 96 (see objection to the specification, below)

Specification

The disclosure is objected to because of the following: on page 11 line 4-9 "pressure on the inner surface 98 applies a thrust force...to the sleeve 86 which is displaced..., in opposition to the conical washer 90 in the direction F2. This displacement...creates inside the sleeve...an annular cavity 104 (FIG. 4) filled by the material displaced by the deformations of the reaction disc 96" appears to contradict the drawings. Fig 2 shows that the reaction disc 96 fills the sleeve from the inner surface (98) of the flange (94) to the flat head (84), which abuts against a shoulder (not numbered). As the sleeve moves toward the bearing surface (74), an annular cavity (104, fig 3) is formed; but the material displaced by the deformations of the reaction disc

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96 can not fill in there, since the disc is in the space before the movement (as clearly shown in fig 2). It would appear that the material displaced by the deformations of the reaction disc 96 fills in to move either the plunger (22), or the flat head (84). Fig 3 appears to be wrong, based on the above discussion, since neither the flat head nor the plunger are shown moved to absorb the material displaced by the deformations of the reaction disc 96. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 29-49 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 29 line 17-18, claim 40 line 14-15 and claim 49 line 7-8 "said deformation absorbed by a (an axial) distance between an internal surface of the disc and the annular flange" appears to be supported by the portion of the specification discussed above in the objection to the specification; and therefore appears to be wrong. It would appear that the deformation is absorbed by movement of the flat head or the plunger.

Claims 30-34 are indefinite, since they depend (either directly or indirectly) from canceled claim 28

Claims not discussed are indefinite, since they depend from one of the above mentioned claims.

Claim Rejections - 35 USC § 102

Claim 40, 41, 44, 45, and 47-49, inasmuch as they are definite, are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Gauthier. The flange (forming inner surface 34) forms a bearing surface for the springs (36).

Claim 40 and 45-49, inasmuch as they are definite, are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Tsubouchi et al. The flange (part of 16) forms a bearing surface for the reaction disc (14).

Claim 49 is rejected under 35 U.S.C. § 102(b) as being clearly anticipated by any one of Tobisawa (note annular flange on 31) or Inoue et al (note annular flange 151a).

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Conclusion

Claims 29 and 35-39 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

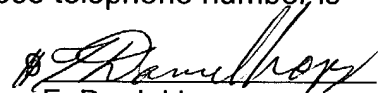
Claims 42 and 43 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is (703) 308-0008. The examiner can normally be reached on Monday-Thursday from 6:30 AM -4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on (703) 308-1044. The fax number for this group is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.


F. Daniel Lopez
Primary Examiner
Art Unit 3745
September 17, 2004